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6 Attorneys for Fire Victim Claimants, including Signalized Intersection West, LLC

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

11 || *In re:*

12 || PG&E CORPORATION

13 || -and-

14 PACIFIC GAS AND ELECTRIC
15 COMPANY Debtors

16 | Affects PG&E Corporation

17 Affects Pacific Gas & Electric

18 Affects Both Debtors

19 All papers shall be filed in the Lead Case,
No.19-30088 (DM)

-) Case No. 19-30088 (DM)
-) Chapter 11
-) (Lead Case)
-) (Jointly Administered)
-)
MOTION TO ALLOW/DEEM TIMELY
LATE FILING OF PROOF OF CLAIM
BY SIGNALIZED INTERSECTION
WEST, LLC; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF; DECLARATION
OF DANIEL L. ALLEN
-)
Date: August 9, 2022
-) Time: 10:00 a.m.
-) Place: **To Be Held Telephonically**
United States Bankruptcy Court
Courtroom 17
450 Golden Gate Avenue
16th Floor
San Francisco, CA
-)
Judge: Honorable Dennis Montali

Objection Deadline: August 2, 2022

The Kane Law Firm respectfully files this motion to allow the late filing of a proof of claim and deem the proof of claim as having been timely filed for the moving party herein, Signalized Intersection West, LLC.

I.

SUMMARY OF ARGUMENT

3 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of
4 prejudice. The Supreme Court in *Pioneer Investment Services v. Brunswick Associated Ltd.*
5 *Partnership*, 507 U.S. 380 (1993) set forth the factors that must be considered in ruling on
6 whether a late claim should be allowed in the context of a bankruptcy filing. These factors to be
7 considered are as follows:

8 1. The danger of prejudice to the Debtor,

9 2. The length of delay and its potential impact on judicial proceedings,

10 3. The reason for the delay, including whether it was within the reasonable control of the

11 movant, and

12 4. Whether the movant acted in good faith. *Pioneer Investment Services, supra* at 395.

13 In this case, movant Signalized Intersection West, LLC owns three parcels of undeveloped
14 real estate near Paradise, California that were burned in the Camp Fire. The movant was unaware
15 that it could file a claim for damages and diminished value of real estate caused by the fire. Only
16 recently, did the movant come to know that such a claim may be permissible. The movant
17 immediately contacted counsel and requested that they file a late claim.

18 As set forth below, the movant meets all these factors. Indeed, if this motion is **not**
19 granted it is the movant who will suffer substantial prejudice.

II.

PROCEDURAL BACKGROUND

22 On January 29, 2019, the Debtors, PG&E Corporation and Pacific Gas and Electric
23 Company (“Debtors”) filed a voluntary Chapter 11 Petition. *See* Dkt. 1. On July 2, 2019, the
24 Court entered an order establishing October 21, 2019 (“the bar date”) as the deadline for Fire
25 Victim claimants to file proofs of claim in this bankruptcy. *See* Dkt. 2806. That deadline was
26 extended to December 31, 2019 (“the “extended bar date.”). *See* Dkt. 4872.

III.

FACTUAL BACKGROUND

3 Signalized Intersection West, LLC owns three parcels of undeveloped real estate in the
4 Paradise, California vicinity. The principle and owner of the LLC, Daniel L. Allen, resides in
5 Poway, California, hundreds of miles from the burn cite. The value of the real estate was
6 diminished when the Camp Fire destroyed trees, underbrush, and some gates. Only recently did
7 the movant learn that it could file a claim for loss of value of real property. Once the movant
8 learned that this claim was permissible, it contacted counsel and requested that they immediately
9 file a late claim. A Late Claim has been filed, Number 108513, submitted herewith as Exhibit A
10 to this motion.

IV.

ARGUMENT

13 The time in which to make claims in a Chapter 11 Bankruptcy may be extended by motion
14 based on excusable neglect. Federal Rules of Bankruptcy Procedure, Rule 9006(b)(1) provides:

15 (b) Enlargement.

16 (1) *In general.* Except as provided in paragraphs (2) and (3) of this subdivision,
17 when an act is required or allowed to be done at or within a specified period by
18 these rules or by a notice given thereunder or by order of court, the court for cause
19 shown may at any time in its discretion (1) with or without motion or notice order
the period enlarged if the request therefor is made before the expiration of the
period originally prescribed or as extended by a previous order or (2) **on motion
made after the expiration of the specified period permit the act to be done
where the failure to act was the result of excusable neglect.**

20 Fed R. Bank. Proc. 9006.(b)(1). *Emphasis supplied.*

21 Determination of excusable neglect has been interpreted by the United States Supreme
22 Court as an equitable consideration.

23 "We conclude the determination at bottom an equitable one, taking account of all relevant
24 circumstances surrounding the party's omission. These include. . .the danger of prejudice
25 to the debtor, the length of the delay and its potential impact on judicial proceedings, the
 reason for the delay, including whether it was within the reasonable control of the movant,
 and whether the movant acted in good faith." *Pioneer Inv. Servs v. Brunswick Assoc.*
 Ltd.P'ship, 507 U.S. 380, 395 (1993)

27 Here, there is no danger of prejudice to the Debtors. Where the claim does not disrupt the
28 distribution process, no prejudice will result. *In re Sacred Heart Hosp.*, 186 B.R. 891, 897.

1 ("Exactly how the debtor's assets are distributed is ultimately of little consequence to the
2 debtor, so long as the claim is not filed so late as to disrupt the distribution process.")

3 Further, the delay is not significant. The Trust has only completed determinations on a
4 percentage of claims in this matter, not including the large number of requests for
5 reconsiderations and appeals. Allowing the late claim will not delay the proceedings.

6 The reason for the delay in filing a claim was that Signalized Intersection West, LLC was
7 unaware that a claim for damage to undeveloped real estate was permissible. The principle and
8 owner of the LLC lives hundreds of miles away from the site of fire. Excusable neglect will be
9 found even where sophisticated attorneys miss a deadline. *ZiLOG, Inc. v. Corning (In re ZiLOG,*
10 *Inc.*), 450 F.3d 996, 1006 (9th Cir. 2006). The case for excusable neglect is even more compelling
11 when the mistake was made by an unrepresented layperson. *Id.*

12 Further, Signalized Intersection West, LLC acted in good faith. The failure to file was not
13 based on litigation tactics where a party deliberately misses a deadline to gain advantage. (See
14 e.g., *Venice Baking Co. v. Sophast Sales & Mkg. LLC* 2016 U.S. Dist LEXIS 141533 where relief
15 was denied because counsel purposefully chose not to oppose a motion as a litigation tactic). Here
16 the delay was inadvertent and the movant's lack of understanding of the claims process after a
17 trust fund had already been established to satisfy the claim.

18 And, finally, the likelihood of injustice is great if this claim is not permitted. Signalized
19 Intersection West, LLC is a Camp Fire victim whose primary avenue for compensation for lost
20 value and damage to property is through this bankruptcy.

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V.

CONCLUSION

For the reasons set forth above, Movant respectfully requests that this Court enter an Order pursuant to Bankruptcy Rule 9006(b)(1) as follows:

1. Granting the Motion;
2. Finding that the Movant be allowed to file a Proof of Claim and deem it as having been timely filed;

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3. Granting such other or further relief as the Court deems just and proper.

2 | Dated:July 15, 2022 Respectfully submitted,

THE KANE LAW FIRM

By: _____ /s/

BONNIE E. KANE
Attorneys for Signalized Intersection West, LLC